THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO.6269 OF 2007

Dated 29-03-2007

Between:
Puvvula Kesavaswamy, Railway New Colony, Visakhapatnam

……..Petitioner

Vs.

1) The East Cost Railway, represented by its Divisional Railway Manager, Waltair, Visakhapatnam and two others.

…….Respondents.

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WRIT PETITION NO.6269 OF 2007

O R D E R:

Assailing the proceedings No. Bs.1/16/Mech, dated 26.07.2006, issued by the third respondent refusing to enter the name of his adopted son Puvvula Depak in the Railway Pass, as illegal and arbitrary, the petitioner filed the present writ petition.

The petitioner is working as Head Clerk in the Office of the Senior DME's Ofice, East Coast Railway, Waltair, Visakhapatnam. The petitioner states that since he was not blessed with any issues, he adopted the son of Smt. Satyakumari and Sri. Dantuluri Rambabu, by name Mr. Deepak, on 12.05.1985, as his son, when he was one year old, as per the customs and traditions. The petitioner states that though he adopted Mr. Deepak, as his son, they did not feel it necessary for taking in adoption under a registered adoption deed, but as he was advised to have an adoption deed, they got executed an adoption deed on 26.07.2006. Based on the said execution deed, the petitioner states that he made representation to the third respondent

requesting him to enter his adopted son's name, namely Mr. Deepak in the Railway Pass, but the third respondent by reason of the proceedings impugned in the writ petition, rejected the same stating that the adoption deed is not valid, and since the name of Mr. Deepak was not entered in the pass declaration as adopted son, no privileges can be extended.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Railways, and perused the impugned proceedings.

The petitioner claims to have adopted Mr. Deepak, son of Smt. Satyakumari and Sri. Rambabu, on 12.05.1985, as his adopted son, when he was one year old, as per the customs and traditions. At the time of adoption, admittedly, no adoption deed was executed by the natural parents of Mr. Deepak in favour of the petitioner. The petitioner, admittedly, got executed adoption deed, long after the adoption on 26.07.2006. By the date, the said adoption deed was executed, Mr. Deepak was aged 17½ years. It is the case of the respondents that as the adoption deed was executed long after the alleged adoption, the same is invalid as per the extant Rules, and this apart, it is their case that the petitioner in the Pass declaration, did not declare the name of his adopted son, and therefore, he was not entitled to any privileges. Given the stand taken by the respondents, no direction as prayed for by the

petitioner can be granted, and more so when disputed questions of fact, namely whether the adoption of Mr. Deepak by the petitioner, really took place on 12.05.1985, and if so, whether such adoption, took place in the presence of relatives and friends, as per the customs and practices, and whether the adoption deed executed by the biological parents of Mr. Deepak giving him in adoption to the petitioner, when he was 17½ years old is valid or not, are involved in the writ petition. Disputed questions of fact, the law is well settled, cannot be gone into by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, and the remedy of the petitioner, if any, is to approach the competent civil Court and obtain a declaration as to the legality of the adoption, and then seek appropriate reliefs from the respondents.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V.RAMANA J.,

Dt.29.03.2007
tjs